THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.7329 of 1999

Between:

M/s.Velama Sankshema Sangam. … Petitioner

and

The Special Officer and Competent Authority,
Urban Land Ceiling,
Warangal and others. … Respondents

ORDER:

It is the case of the petitioner-Society that it was registered in the year 1995 with registration No.12/95 and it purchased an extent of 1800 sq. yards in Sy.Nos.42 and 43 of Shyampet Village, Hanamkonda Mandal, Warangal District, through Sale Deeds, dated 20-03-1995, 21-03-1995 and 16-07-1996. It is stated that the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 (for short "the Act") were applicable to the Warangal Town also and the said land is situated in the peripheral area and, therefore, the owners are entitled for exemption to an extent of Ac.5-00 as per G.O.Ms.No.733, Revenue (UC.I) Department, dated 31-10-1988. While so, on 27-03-1999, the 3rd respondent came to the site to take possession of the land in question, inspite of objection raised by the petitioner stating that it purchased the said land in the years 1995 and 1996. It is further stated that on enquiry, the petitioner came to know that the original owner of the said land Sri Lakkakula Venkataiah and others filed a declaration in C.C.No.B2/4566/76 and certain orders have been passed from the stage of Section 8 till 10 of the Act. The petitioner intends to question 10(6) order and therefore, it applied for certified copy of 10(6) order in the said C.C., but the said application has been rejected through the impugned memo No.B2/Records/01/1999, dated 03-04-1999, on the ground that the petitioner is not a party to the said proceedings and it is a third party and therefore, the certified copy cannot be issued. Aggrieved by the said memo, this writ petition has been filed.

A counter has been filed on behalf of the respondents stating that the land originally belongs to one Sri Lakkakula Venkataiah, who filed declaration under the Act for the vacant land held by him including the land in Sy.Nos.42 and 43 of Shyampet village. The Special Officer and Competent Authority, Urban Land Ceilings, Warangal, after getting verification report issued draft statement under Section 8 of the Act on 12-10-1979 and the same has been served on the declarant on 28-10-1979. Since there was no response from the declarant to file any objection, the Special Officer and Competent Authority, Urban Land Ceilings, Warangal, passed an order under Section 8(4) of the Act on 17-09-1981 computing the total vacant land of the declarant to an extent of 13,264 sq. mtrs. and after allowing the declarant to retain 2000 sq. metrs, the Special Officer and Competent Authority, Urban Land Ceilings, Warangal, declared the excess vacant land as 11,264 sq. mtrs. Accordingly, the final statement under Section 9 of the Act has been issued on 17-09-1981 identifying the lands to be surrendered, which includes 607 sq. mtrs. in Sy.No.42 and 1236 sq. mtrs. in Sy.Nos.43/B and 43/C. Thereafter, notification under Section 10(1) of the Act has been issued on 24-12-1981 calling for objections/ claims, if any, from any person interested on the identification of the land to be surrendered. The said notification has been published in the A.P. State Gazette No.11, on 18-03-1982. Since there was no objection/claim from anybody, notification under Section 10(3) of the Act has been issued on 06-05-1982 and also got published in the A.P.State Gazette No.54, dated 12-02-1983. Thus, it is the case of the respondents that the said land has already been vested with the State Government free from all encumbrances on 12-02-1983 itself. Therefore, the purchase of the said lands by the petitioner's Society from the

declarant in the years 1995 and 1996 is null and void and as such it cannot claim any right over the said land.

As per Section 5(3) of the Act, no person holding vacant land in excess of the ceiling limit immediately before the commencement of the Act shall transfer any such land or part thereof by way of sale, mortgage, gift, lease or otherwise until he has furnished a statement under Section 6 and a notification regarding the excess vacant land held by him has been published under sub-section (1) of Section 10; and any such transfer made in contravention of this provision shall be deemed to be null and void.

As per Section 10(3) of the Act, at any time after the publication of the notification under sub-section (1), the competent authority may, by notification published in the Official Gazette of the State concerned, declare that the excess vacant land referred to in the notification published under sub-section (1) shall, with effect from such date as may be specified in the declaration, be deemed to have been acquired by the State Government and upon the publication of such declaration, such land shall be deemed to have vested absolutely in the State Government free from all encumbrances with effect from the date so specified.

Learned Government Pleader appearing for the respondents submits that in respect of the same land in question relating to Lakkakula Venkataiah, similar purchaser filed a writ petition contending that the original owners are entitled for exemption of Ac.5-00 under G.O.Ms.No.733, dated 31-10-1988. However, the said writ petition was dismissed by this Court. Against which, Writ Appeal Nos.1336 and 1338 of 2005 have been filed by one Parchuri Ratnakar Rao before a Division Bench of this Court. The Division Bench of this Court in ***PARCHURI RATNAKAR RAO v. STATE OF A.P.***[1] held that

by the date of purchase of the land, the proceedings under the provisions of the Act have been completed and the possession is deemed to have been taken by the State Government and, therefore, it is not open for such appellant to seek any exemption under G.O.MS.No.733, as the purchase of the land was only after the proceedings under Section 10(6), which cannot be challenged after a long lapse of time.

I am of the opinion that the reasons assigned by the Division Bench of this Court in ***PARCHURI RATNAKAR RAO's*** case (supra) are squarely applies to the instant case. Therefore, following the said judgment, this writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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12-09-2007

Prv

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[1] 2006(5) ALD 132